

Department of Veterans Affairs

§ 21.3135

VA will apply the provisions of § 21.4236.

(Authority: 38 U.S.C. 3492, 3533(b))

(e) *Offsets: 38 U.S.C. chapter 35, compensation, pension and dependency and indemnity compensation.* Payment of dependents' educational assistance will be subject to offset of amounts of pension, compensation or dependency and indemnity compensation paid over the same period on behalf of a child based on school attendance.

(Authority: 38 U.S.C. 3562)

(f) *Final payment.* VA may withhold final payment until VA receives proof of continued enrollment and adjusts the eligible person's account.

(Authority: 38 U.S.C. 3680)

[61 FR 26111, May 24, 1996]

§ 21.3135 Reduction or discontinuance dates for awards of educational assistance allowance.

The reduction or discontinuance date of an award of educational assistance will be as stated in this section. If more than one basis for reduction or discontinuance is involved, the earliest date will control.

(a) *Ending date of course.* Educational assistance allowance will be discontinued on the ending date of the course or period of enrollment as certified by the school.

(Authority: 38 U.S.C. 3531, 3680(a))

(b) *Ending date of eligibility.* Educational assistance allowance will be discontinued on the ending date of the eligible person's eligibility as determined by § 21.3041, § 21.3042, § 21.3043, or § 21.3046.

(Authority: 38 U.S.C. 3512)

(c) *General reduction or discontinuance dates.* Educational assistance allowance will be reduced or discontinued on the date specified in § 21.4135.

(Authority: 38 U.S.C. 3482(g), 3531, 3671(g), 3672(a), 3680, 3683, 3690, 5112, 5113, 6103, 6104, 6105)

(d) *Divorce.* If the veteran and eligible spouse divorce, the discontinuance date for the eligible spouse's award of educational assistance will be:

(1) The end of the quarter or semester if the school is operated on a quarter or semester system, and the divorce was without fault on the eligible spouse's part;

(2) The end of the course or a 12-week period, whichever is earlier, if the school does not operate on a quarter or semester system, and the divorce was without fault on the eligible spouse's part; or

(3) In all other instances, the date the divorce decree becomes final.

(Authority: 38 U.S.C. 3501(a)(1)(D), 3511(b))

(e) *Remarriage or other relationship of spouse or surviving spouse.* (1) If an eligible surviving spouse remarries, the date of discontinuance of his or her award of educational assistance allowance will be the last date of attendance before remarriage.

(2) If a spouse or surviving spouse begins a relationship by living with another person and holding himself or herself out openly to the public to be the spouse of the other person, the date of discontinuance of his or her award of educational assistance allowance will be the last date of the month before the spouse's or surviving spouse's relationship began.

(Authority: 38 U.S.C. 101(3), 3501(a)(1)(B))

(f) *Entrance on active duty (§ 21.3042).* If an eligible person enters on active duty, VA will terminate his or her educational assistance allowance on the day before the day of entrance on active duty. Brief periods of active duty for training, if the school permits such an absence without interruption of training, will not result in termination of the allowance under this paragraph.

(Authority: 38 U.S.C. 3501(d))

(g) *Eligible child ceases to be a stepchild.* When an eligible child loses eligibility because he or she ceases to be the stepchild of the veteran, VA will discontinue the dependent's educational assistance allowance on the last day of the child's eligibility as determined by § 21.3041(d)(9).

(Authority: 38 U.S.C. 101(4)(A), 3501)

(h) *Veteran no longer rated permanently and totally disabled.* (1) If the veteran on whose service an eligible person's eligibility is based is no longer

permanently and totally disabled, VA will discontinue the educational assistance allowance—

(i) On the last date of the quarter or semester during which VA rated the veteran as no longer permanently and totally disabled if the eligible person's educational institution is organized on a quarter or semester basis; or

(ii) On the earlier of the following dates when the eligible person's educational institution is not organized on a quarter or semester basis:

(A) The last date of the course;

(B) The end of a 12-week period beginning on the date VA rated the veteran as being no longer permanently and totally disabled.

(Authority: 38 U.S.C. 3511(b), 3512(a)(6)(A))

(i) Serviceperson is removed from "missing status" listing. (1) If the serviceperson on whose service an eligible person's eligibility is based is removed from the "missing status" listing, VA will discontinue the educational assistance allowance—

(i) On the last date of the quarter or semester during which the serviceperson was removed from the "missing status" listing if the eligible person's educational institution is organized on a quarter or semester basis; or

(ii) On the earlier of the following dates when the eligible person's educational institution is not organized on a quarter or semester basis:

(A) The last date of the course;

(B) The end of a 12-week period beginning on the date the serviceperson was removed from the "missing status" listing.

(Authority: 38 U.S.C. 3512(a)(6)(A))

[61 FR 26111, May 24, 1996]

SPECIAL RESTORATIVE TRAINING

§ 21.3300 Special restorative training.

(a) *Purpose of special restorative training.* The Department of Veterans Affairs may prescribe special restorative training where needed to overcome or lessen the effects of a physical or mental disability for the purpose of enabling an eligible child to pursue a program of education, special vocational program or other appropriate goal. Medical care and treatment or psychiatric treatment are not included.

(b) *Special restorative training courses.* The counseling psychologist, after consulting with the Vocational Rehabilitation Panel, may prescribe for special restorative training purposes courses such as—

(1) Speech and voice correction or retention,

(2) Language retraining,

(3) Speech (lip) reading,

(4) Auditory training,

(5) Braille reading and writing,

(6) Training in ambulation,

(7) One-hand typewriting,

(8) Nondominant handwriting,

(9) Personal, social and work adjustment training,

(10) Remedial reading, and

(11) Courses at special schools for mentally and physically disabled or

(12) Courses provided at facilities which are adapted or modified to meet special needs of disabled students.

(Authority: 38 U.S.C. 3540)

(c) *Duration of special restorative training.* VA may provide special restorative training in excess of 45 months where an additional period of time is needed to complete the training. Entitlement, including any authorized in excess of 45 months, may be expended through an accelerated program requiring a rate of payment for tuition and fees in excess of \$119 per calendar month. See §§ 21.3303 and 21.3333(b).

(Authority: 38 U.S.C. 3541(b), 3542)

(d) *Special restorative training precluded in Department of Veterans Affairs facilities.* Special restorative training will not be provided in Department of Veterans Affairs facilities.

(Authority: 38 U.S.C. 3543(b))

[48 FR 37973, Aug. 22, 1983, as amended at 49 FR 42725, Oct. 24, 1984; 50 FR 19934, May 13, 1985]

§ 21.3301 Need.

(a) *Determination of need.* When special restorative training has been requested or is being considered for a handicapped child, a counseling psychologist will obtain all information necessary to determine the need for and feasibility of special restorative training. After the counseling psychologist completes this task, he or she will refer the case to the Vocational